

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Denis Paul Gagne

v.

Case No. 03-cv-302-PB

Jane Coplan, et al.

O R D E R

Pro se plaintiff Denis Paul Gagne is incarcerated at the New Hampshire State Prison. He belongs to the prison's Native American Sacred Circle religious group. In July 2003, he filed suit alleging that several state officials¹ are denying him his right to make religious use of a sweat lodge under the First Amendment's Free Exercise Clause and the Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. § 2000cc *et seq.* ("RLUIPA"). Defendants have responded with a motion for summary judgment (Doc. No. 32).

¹ The named defendants are Phil Stanley, former commissioner of the Department of Corrections; Jane Coplan, New Hampshire State Prison Warden; and John Vinson, Esq., Staff Attorney for the Department of Corrections.

To the extent Gagne is seeking money damages, the defendants are entitled to qualified immunity for the reasons set forth in Farrow v. Stanley, No. 02-567-PB, 2005 DNH 146 at 33-40. The defendants' motion for summary judgment as to this claim is granted.

To the extent Gagne seeks declaratory and injunctive relief, the defendants' motion for summary judgment is denied for the reasons set forth in Farrow at 21-27 (RLUIPA), 27-30 (Free Exercise Clause). The case shall be consolidated for trial with Farrow under Local Rule 42.1(c). The clerk shall set the consolidated case for status conference.

SO ORDERED.

/s/Paul Barbadoro
Paul Barbadoro
United States District Judge

October 24, 2005

cc: Dennis Paul Gagne
Michael K. Brown